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Medtronic, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JENEANE BAQUE, et al.

Plaintiffs,

vs.

MEDTRONIC, INC., et al.

Defendant.

Case No. 3:07-cv-5352-WHA

**REPLY IN SUPPORT OF DEFENDANT
MEDTRONIC, INC.'S MOTION TO STAY
PROCEEDINGS PENDING DECISION BY
THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION ON
PENDING TRANSFER MOTIONS**

Hearing Date: January 10, 2007
Time: 8:00 a.m.
Courtroom: 9, 19th Fl.
Compl. Filed: October 19, 2007
Trial Date: None Set

Honorable William H. Alsup

1 On December 3, 2007, defendant Medtronic, Inc. filed a motion to stay proceedings pending
2 a decision by the Judicial Panel on Multidistrict Litigation on pending MDL motions. Under Local
3 Rule 7-3, plaintiff's opposition or statement of non-opposition was due by December 20, 2007.
4 Plaintiff did not file an opposition. Failure to file an opposition may be deemed consent to granting
5 of the motion. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (district court properly granted
6 motion to dismiss when plaintiff did not file an opposition); *Candler v. Woodford*, 2007 U.S. Dist.
7 LEXIS 83988, *29 (D. Cal. 2007) (cautioning plaintiff that failure to respond to defendants' motion
8 for summary judgment may be deemed to be a consent by plaintiff of granting of the motion).

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10 In light of plaintiff's decision not to file an opposition, Medtronic respectfully requests that
11 the Court stay all proceedings based on the arguments contained in Medtronic's Memorandum of
12 Points and Authorities in Support of the Motion to Stay Proceedings Pending Decision by the
13 Judicial Panel on Multidistrict Litigation on Pending Motions for Transfer.

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15 .DATED: December 21, 2007

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17 REED SMITH LLP

18 /s/ Dana A. Blanton
19 Sonja S. Weissman
20 Dana A. Blanton
21 Attorneys for Defendant
22 Medtronic, Inc.
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